

Bill No.: \_\_\_\_\_

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

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By: **Leave Blank (By Request – Departmental – Maryland Insurance  
Administration)**

A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurance Producers – Licensing of Business Entities and On-Site Reviews**

3 FOR the purpose of altering a certain prohibition on converting or misappropriating certain  
4 trust money; requiring certain controlling persons and certain trust money  
5 controllers to hold a license to act as a title insurance producer and, if applicable, a  
6 certain appointment; altering the requirements for a license as a title insurance  
7 producer if the applicant is a business entity; requiring the Maryland Insurance  
8 Commissioner to make a certain investigation under certain circumstances;  
9 repealing requirements for certain officers and other individuals to hold a title  
10 insurance producer license under certain circumstances; authorizing a title insurer  
11 to limit the scope of a certain on-site review under certain circumstances; defining  
12 certain terms; and generally relating to trust money and title insurance producers.

13 BY repealing and reenacting, without amendments,

14 Article – Insurance

15 Section 10–101(a) and (c)

16 Annotated Code of Maryland

17 (2011 Replacement Volume and 2016 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Insurance

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 10–121  
Annotated Code of Maryland  
(2011 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Insurance**

10–101.

(a) In this subtitle the following words have the meanings indicated.

(c) “Business entity” means a corporation, professional association, partnership,  
limited liability company, limited liability partnership, or other legal entity.

10–121.

(a) (1) [In this subsection, “trust money” means a deposit, payment, or other  
money that a person entrusts to a licensed title insurance producer in connection with the  
provision of escrow, closing, or real estate settlement services.] **IN THIS SECTION THE  
FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “CONTROLLING PERSON” MEANS AN INDIVIDUAL WHO EXERCISES  
DAY-TO-DAY DIRECT CONTROL OVER THE OPERATION OF A TITLE AGENCY DOING  
BUSINESS IN THE STATE, IRRESPECTIVE OF WHETHER THE PERSON IS AN OFFICER,  
A MANAGER, OR AN OWNER.**

**(3) “ENTITY AUTHORIZATION” MEANS A RESOLUTION OR CONSENT  
DOCUMENT EXECUTED IN ACCORDANCE WITH THE FORMALITIES AND GOVERNING  
PROVISIONS OF THE PARTICULAR BUSINESS ENTITY AND VERIFIED UNDER OATH.**

**(4) “OWNER” MEANS A PERSON THAT INDIVIDUALLY, OR THROUGH  
ONE OR MORE OWNERSHIP TIERS, ULTIMATELY HOLDS A 10% OR MORE EQUITY  
INTEREST IN THE BUSINESS ENTITY APPLYING FOR A TITLE INSURANCE PRODUCER  
LICENSE OR RENEWAL OF A TITLE INSURANCE PRODUCER LICENSE.**

1                   (5)    “TITLE AGENCY” HAS THE MEANING STATED IN § 10–125(A)(4) OF  
2 THIS SUBTITLE.

3                   (6)    “TRUST MONEY” MEANS A DEPOSIT, A PAYMENT, OR ANY OTHER  
4 MONEY THAT A PERSON ENTRUSTS TO A LICENSED TITLE INSURANCE PRODUCER IN  
5 CONNECTION WITH THE PROVISION OF ESCROW, CLOSING, OR REAL ESTATE  
6 SETTLEMENT SERVICES RELATING TO PROPERTY WITHIN THE STATE.

7                   (7)    “TRUST MONEY CONTROLLER” MEANS A PERSON WITHIN A TITLE  
8 AGENCY WHO HAS DAY–TO–DAY DIRECT CONTROL OVER TRUST MONEY.

9           (B)    [(2)] (1)    Except as provided in paragraph [(3)] (2) of this subsection, only  
10 a licensed title insurance producer may exercise control over trust money.

11                   [(3)] (2)    [This] PARAGRAPH (1) OF THIS subsection does not apply to  
12 trust money that is entrusted to:

13                           (i)    a law firm as defined in § 10–125 of this subtitle; or

14                           (ii)   a title insurer.

15           [(b)] (C)   A [title insurance producer] PERSON may not convert or  
16 misappropriate money received or held in escrow or trust while:

17                           (1)    acting as a title insurance producer; or

18                           (2)    providing any escrow, closing, or settlement services.

19           [(c)] (1)    If an applicant for a license is a partnership, each partner must hold a  
20 license to act as a title insurance producer and, if applicable, an appointment with a title  
21 insurer.

22                           (2)    (i)    If an applicant for a license is a corporation, each controlling  
23 owner and each officer must hold a license to act as a title insurance producer and, if  
24 applicable, an appointment with a title insurer.

25                                   (ii)   For purposes of subparagraph (i) of this paragraph, a person is  
26 not considered a controlling owner of a corporation if the person:

1. is a stockholder of the corporation;

2. does not manage or have day-to-day control over the operation of the corporation; and

3. is not an officer, director, or employee of the corporation who in any other way renders services for the corporation for which the person is compensated by the corporation.

(3) If an applicant for a license is a limited liability company, each individual who has direct control over its fiscal management and each manager and officer must hold a license to act as a title insurance producer and, if applicable, an appointment with a title insurer.

(d) (1) When the application of a partnership for a license as a title insurance producer is submitted, the Commissioner shall investigate the character of each partner of the partnership applicant.

(2) When the application of a corporation for a license as a title insurance producer is submitted, the Commissioner shall investigate the character of each controlling owner and each officer and director of the corporate applicant.

(3) When the application of a limited liability company for a license is submitted, the Commissioner shall investigate the character of each individual who has direct control over its fiscal management and each member, manager, officer, and director of the limited liability company applicant.]

**(D) (1) EACH CONTROLLING PERSON AND EACH TRUST MONEY CONTROLLER SHALL HOLD A LICENSE TO ACT AS A TITLE INSURANCE PRODUCER AND, IF APPLICABLE, AN APPOINTMENT WITH A TITLE INSURER.**

**(2) IF AN APPLICANT FOR A LICENSE IS A BUSINESS ENTITY, THE APPLICATION SHALL BE ACCOMPANIED BY AN ENTITY AUTHORIZATION THAT:**

**(I) IDENTIFIES EACH CONTROLLING PERSON;**

(II) DESIGNATES EACH PERSON THAT WILL BE A TRUST MONEY  
CONTROLLER FOR THE TITLE AGENCY;

(III) IDENTIFIES EACH OWNER; AND

(IV) IDENTIFIES EACH OFFICER, DIRECTOR, MANAGER,  
GENERAL PARTNER, OR OTHER PERSON DESIGNATED BY THE BUSINESS ENTITY TO  
ACT AS THE BUSINESS ENTITY'S PRINCIPAL CONTACT WITH THE ADMINISTRATION.

(3) WHEN THE APPLICATION OF A BUSINESS ENTITY FOR A LICENSE  
AS A TITLE INSURANCE PRODUCER IS SUBMITTED, THE COMMISSIONER SHALL  
INVESTIGATE THE CHARACTER OF EACH PERSON IDENTIFIED AS A CONTROLLING  
PERSON AND EACH PERSON IDENTIFIED AS A TRUST MONEY CONTROLLER IN THE  
ENTITY AUTHORIZATION INCLUDED WITH THE APPLICATION.

(e) (1) In addition to meeting any of the applicable requirements for a license  
to act as an insurance producer under this subtitle, a [sole proprietor, a limited liability  
company, a partnership, or a corporate] BUSINESS ENTITY applicant for a license as a title  
insurance producer shall file with the Commissioner:

(i) a blanket fidelity bond covering appropriate employees and title  
insurance producer independent contractors; and

(ii) 1. a blanket surety bond; or

2. a letter of credit.

(2) Unless the Commissioner approves a lesser amount, each bond or letter  
of credit shall be for \$150,000.

(3) The Commissioner may adopt regulations that specify when it is  
appropriate for a bond or letter of credit to be less than \$150,000.

(4) Notwithstanding paragraph (2) of this subsection, the Commissioner  
may waive the requirement for a bond or letter of credit if the Commissioner finds that  
bonds are not generally available or reasonably affordable.

(5) The Commissioner shall make a specific finding that states the reason for accepting a bond or letter of credit for less than \$150,000.

(f) (1) The surety bond or letter of credit shall be for the benefit of any person that suffers a loss if the title insurance producer converts or misappropriates money received or held in escrow or trust while:

(i) acting as a title insurance producer; or

(ii) providing any escrow, closing, or settlement services.

(2) The fidelity bond shall be for the benefit of the employer of the title insurance producer who suffers any loss as described in paragraph (1) of this subsection.

(3) The total liability of the surety insurer under each bond or letter of credit may not exceed \$150,000.

(g) The title insurance producer shall file the bond or letter of credit with the Commissioner:

(1) after the Commissioner notifies the title insurance producer of the approval of the application for a license; and

(2) before the Commissioner issues the license.

(h) (1) Each bond or letter of credit shall remain in force until:

(i) the surety insurer is released from liability by the Commissioner;  
or

(ii) the bond or letter of credit is canceled by the surety insurer.

(2) A surety insurer shall notify the title insurance producer and the Commissioner at least 30 days before canceling a bond or letter of credit.

(3) If a surety insurer fails to notify the title insurance producer and the Commissioner as required by paragraph (2) of this subsection, the bond or letter of credit

remains in effect until the surety insurer notifies the title insurance producer and the Commissioner.

(4) A cancellation under this subsection does not affect any liability that occurred during the life of the bond or letter of credit and before the date of cancellation.

(i) Before the Commissioner renews the license of a title insurance producer, the title insurance producer shall submit satisfactory evidence of compliance with this section.

(j) (1) If a title insurance producer has been charged with a violation of this section or this article that could result in suspension or revocation of the license of the title insurance producer, the Commissioner may seek an immediate restraining order from a circuit court to prohibit the title insurance producer from providing title insurance, escrow, closing, or settlement services.

(2) A restraining order issued by a court under this subsection is effective until:

(i) the court lifts the restraining order; or

(ii) the charges are dismissed or adjudicated.

(k) (1) (i) Except as provided in paragraph (5) of this subsection, the title insurer shall during each calendar year conduct an on-site review of the underwriting, claims, and escrow practices of each title insurance producer appointed by the insurer as a principal agent as designated in the title insurance agency contract between the insurer and the producer.

(ii) The on-site review shall include a review of the title insurance producer's or agency's policy blank inventory and processing operations.

(iii) If the title insurance producer or agency does not maintain separate bank or trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title insurance producer or agency.

**(IV) SUBJECT TO THE REQUIREMENT UNDER PARAGRAPH (3) OF THIS SUBSECTION TO REPORT SUSPECTED VIOLATIONS THAT THE TITLE INSURER**

1 HAS REASONABLE CAUSE TO BELIEVE HAVE OCCURRED, IF THE TITLE INSURANCE  
2 PRODUCER OR TITLE AGENCY HOLDS AN APPOINTMENT WITH MORE THAN ONE  
3 TITLE INSURER, THE TITLE INSURER MAY LIMIT ITS REVIEW TO FILES, SEPARATELY  
4 HELD ACCOUNTS, AND WRITTEN DOCUMENTATION RELATING TO ITS TITLE  
5 INSURANCE POLICIES.

6 (2) A written report setting forth the results of the on-site review shall be  
7 prepared by the title insurer and is subject to examination under § 2-205 of this article.

8 (3) If, as a result of the examination, a title insurer has reasonable cause  
9 to believe that a title insurance producer or agency has engaged in any of the prohibited  
10 activities set forth in § 10-126 of this subtitle, the title insurer shall report in writing the  
11 suspected violation to the Commissioner and submit a copy of the examination.

12 (4) The examination required under this section is in addition to any  
13 examination conducted by the Commissioner to determine compliance with the accounts  
14 maintained for the benefit of the Maryland Affordable Housing Trust under § 22-105 of  
15 this article.

16 (5) The title insurer is not required to perform the on-site review of a title  
17 insurance producer for the calendar year during which the title insurance producer is  
18 initially appointed if the appointment is made on or after June 30 of that calendar year.

19 (l) (1) A title insurance producer shall notify any title insurer with whom the  
20 title insurance producer holds an appointment whenever a person licensed under this  
21 subtitle becomes employed by, or associated with, the title insurance producer.

22 (2) The bonding requirements of this subtitle relating to title insurance  
23 producers do not apply to an employee or officer of an authorized title insurer.

24 (m) (1) A title insurance producer shall notify the Commissioner, and any  
25 insurer with whom the title insurance producer holds an appointment, if an individual  
26 licensed under this subtitle leaves the employment of or ends an association with the title  
27 insurance producer.

28 (2) The title insurance producer required to provide notice under this  
29 subsection shall notify the Commissioner within 5 working days after the day the  
30 individual leaves employment or ends the association.



1                   (3)    The notice required under this subsection shall be in writing and by  
2 certified mail.

3                   (n)    Notwithstanding subsections (e) and (g) of this section, a title insurance  
4 producer independent contractor who provides escrow closing or settlement services that  
5 may result in the issuance of a title insurance contract for or on behalf of a title insurance  
6 producer is not required to file a blanket fidelity bond, blanket surety bond, or letter of  
7 credit with the Commissioner.

8                   (o)    In addition to any requirements under this subtitle, title insurance producers  
9 shall comply with this section.

10                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2017.